

Docket No. 23-4509

**IN THE UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT**

United States of AmericaPlaintiff-Appellee,

v.

Russell Lucius LaffitteDefendant-Appellant.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA,
BEAUFORT DIVISION, RICHARD M. GERGEL, DISTRICT JUDGE

**DEFENDANT-APPELLANT'S CERTIFICATE OF CONFIDENTIALITY
FOR THE SEALED JOINT APPENDIX**

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Defendant-Appellant Russell Lucius Laffitte (“Laffitte”) respectfully certifies pursuant to Local Rule 25(c)(1) that the Sealed Joint Appendix contains and otherwise discloses materials held under seal by the District Court. There are numerous filings that were sealed by the District Court, and remain under seal, and sealing this volume of the Joint Appendix (JA3313-JA3566) is necessary to protect material sealed by various orders of the District Court.

Local Rule 25(c)(1) requires a certificate of confidentiality to:

- (i) identify the sealed material;
- (ii) list the dates of the orders sealing the material or, if there is no order, the lower court or agency’s general authority to treat the material as sealed;
- (iii) specify the terms of the protective order governing the information; and
- (iv) identify the appellate document that contains the sealed information.

These requirements are addressed as follows:

1. Identity of Sealed Materials in Sealed Joint Appendix

- Dkt. 173 - Order Denying Defendants’ Request to Call Murdaugh as Witness
- Dkt. 205 – Juror Notes
- Dkt. 212 – Transcript of *In Camera* Interview with Juror No. 88
- Dkt. 242 – Defendant’s Brief Regarding Admissibility of Jurors’ Affidavits
- Dkt. 254 – Supplemental Motion for New Trial and Partial Reply to Government’s Response in Opposition to Original Motion for New Trial
- Dkt. 256 – Affidavit of Juror #55
- Dkt. 257 – Affidavit of Juror #88
- Dkt. 258 – Affidavit of Juror #93
- Dkt.260 – Government’s Memo re 606(b) and Resp. to Mot. for New Trial
- Dkt. 261 – Defendant’s Reply to Government’s Consolidated Response to Supplemental Motion for New Trial and Admissibility of Juror Affidavits
- Dkt. 262 – Defendant’s Request for Access to Court Records and Personnel

- Dkt. 263 – Sealed Order Denying Motion for Request for Access
- Dkt. 269 – Sealed Order Regarding Admissibility of Juror Affidavits
- Dkt.281 – Email Regarding Juror 88 Affidavit Request
- Dkt.282 – Order Denying Juror 88's Affidavit Request
- Defendant's Presentence Report
- Presentence Report Addendum

2. Dates of Sealing Orders:

- Dkt. 232 – December 21, 2022
- Dkt. 241 – December 28, 2022
- Dkt. 247 – January 3, 2023
- Dkt. 250 – January 3, 2023
- Dkt. 253 – January 3, 2023
- Dkt. 269 – March 6, 2023
- Dkt. 300 – July 17, 2023
- Dkt. 305 – July 27, 2023
- Dkt. 309 – July 31, 2023
- Dkt. 317 – August 2, 2023

3. Terms of Sealing Orders:

- Dkt. 232 – Text Order Granting Motion to Seal Juror Affidavits, which was later vacated by Dkt. 233.
- Dkt. 241 – Text Order stating that “until the Court has had the opportunity to review the briefs of the parties as directed by Dkt. No. 233 and to rule on the matter, no party shall submit to the Court any affidavit or evidence relating to any juror statement, including but not limited to any summary of juror testimony set forth in any brief to the Court.”
- Dkt. 247 – Text Order Granting Motion to Seal Supplemental Motion for New Trial and Partial Reply to the Government's Response in Opposition to the Original Motion.
- Dkt. 250 – Sealed Order Granting Motion to Seal Juror Affidavits. The Order further states: “The juror affidavits and the contents of those affidavits shall not be disclosed to anyone unless authorized by further order of this Court. Any submissions to the Court which in any way sets forth or summarizes the content of the juror affidavits shall be filed under seal.” Dkt. 250 at 1.
- Dkt. 253 – Text Order stating: “All briefs which reference in any way the

content of juror affidavits must be filed under seal.”

- Dkt. 269 – Sealed Order, *inter alia*, continuing the district court’s “order that neither the parties nor their counsel shall disclose the content of these affidavits to any third party and may not describe or quote them in any public filing unless authorized by further order of this Court or a reviewing court of appeals.” Dkt. 269 at 20.
- Dkt. 300 – Sealed Order providing sealed materials and stating, “Like all other sealed documents, defense counsel may not disclose the content of such documents without further order of this Court or a higher Court.” Dkt. 300 at 2.
- Dkt. 305 – Text Order granting Defendant leave to file his Sentencing Memorandum and Motion for Downward Variance under seal.
- Dkt. 309 – Order directing Defendant to file the redacted sentencing memorandum on the public docket.
- Dkt. 317 – Text Order noting that Statement of Reasons is sealed.

As of July 17, 2023, the district court, upon request by current counsel for Defendant-Appellant, has granted counsel for the Government and counsel for the Defendant-Appellant access to all documents filed under seal. *See* Dkt. 300 (“Newly retained defense counsel should have access to all documents, sealed and unsealed, which are provided to counsel of record.”). All sealed materials remain under seal and are only available to the courts and the parties; they are not available to the general public.

4. Appellate Document That Contains Sealed Information:

The Sealed Joint Appendix contains the above-listed sealed materials. Two versions of the Joint Appendix will be filed: a sealed version containing the sealed material and a public version without any sealed material.

Dated: December 27, 2023

Respectfully submitted,

/s/ William W. Wilkins

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CERTIFICATE OF SERVICE

I certify that on December 27, 2023, the foregoing Certificate of Confidentiality for the Sealed Joint Appendix was served on all counsel of record for the parties through the CM/ECF system.

Dated: December 27, 2023

/s/ William W. Wilkins

William W. Wilkins

*Counsel for Defendant-Appellant
Russell Lucius Laffitte*